



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-
MAKING REVIEW COMMITTEE**

AGENCY: Agriculture TITLE-SERIES: 61-23D
RULE TYPE: Legislative Amendment to Existing Rule: No Repeal of existing rule: No
RULE NAME: 61-23D Inspection of Nontraditional Domesticated Animals

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: §19-29-1, §19-29-4

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

rule governs inspection of nontraditional domesticated animals

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? Yes

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? Yes

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD:

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED:

COMMENTS RECEIVED:

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING:

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: Yes

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

This rule governs the inspection of nontraditional domesticated animals. Authorizes Commissioner of Agriculture to promulgate rules to provide inspection of such animals, meat, and meat products

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

for inspection of meat and meat products and for food safety.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

n/a

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

n/a

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

n/a

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2021 Increase/Decrease (use "-")	2022 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

n/a

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Norman Bailey -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 61
LEGISLATIVE RULE
DEPARTMENT OF AGRICULTURE

SERIES 23D
INSPECTION OF NONTRADITIONAL, DOMESTICATED ANIMALS

§61-23D-1. General.

1.1. Scope. -- This rule governs the inspection of nontraditional domesticated animals such as antelope, bison, buffalo, deer, elk, reindeer, and rabbit and edible products derived from these animals and implements the requirements of W. Va. Code §19-29-1 et seq. "Production of Nontraditional Agriculture Products". W. Va. Code §19-29-4 authorizes the Commissioner of Agriculture to promulgate rules to provide inspection of such animals, meat, and meat products.

1.2. Authority. -- W. Va. Code §§19-29-1 and §19-29-4.

1.3. Filing Date. -- ~~March 22, 2018~~

1.4. Effective Date. -- ~~April 22, 2018~~

1.5. Sunset Date. -- This rule shall terminate and have no further force or effect upon the expiration of ten years from its effective date ~~on April 22, 2023~~.

§61-23D-2. Incorporation by Reference of Federal Regulations on Inspection of Exotic Animals and Rabbits.

2.1. The Regulations on Inspection of Exotic Animals (9 CFR, Part 352) and Inspection of Rabbits and Edible Products Thereof (9 CFR, Part 354) of the United States Department of Agriculture are incorporated by reference in this rule with the exception of sections 352.5; 352.7 (a) and (b); 354.1 (n) and (u); 354.2 (a), (b), and (c); 354.20 through 354.33; 354.63 (c); 354.64; 354.65; 354.100 through 354.110; 354.143; 354.160; 354.161; 354.162; and 354.248 of the regulations which are not incorporated.

§61-23D-3. Definitions.

3.1. Definitions in the incorporated parts of the Federal regulations (9 CFR, Parts 352 and 354) are amended to read as follows:

3.1.1. "The Act" means the W. Va. Code §19-29-1 et seq.

3.1.2. "The United States Department of Agriculture" means the West Virginia Department of Agriculture.

3.1.3. "Secretary" means the Commissioner of Agriculture.

3.1.4. "Administrator", "Regional Director", and "Area Supervisor" mean the Director of the Meat Inspection Division of the West Virginia Department of Agriculture.

3.1.5. "The Food Safety and Inspection Service", "Service", and "Program" mean the Meat Inspection Division of the West Virginia Department of Agriculture.

3.1.6. "Official Plant" means an establishment licensed by the Commissioner of Agriculture.

3.1.7. "Exotic Animal" means a nontraditional animal domesticated from wild stock, either native or nonnative, including rabbits.

3.1.8. "U. S. Inspected" means West Virginia Department of Agriculture Inspected.

3.1.9. "U. S. Suspect" means West Virginia Department of Agriculture Suspect.

§61-23D-4. The Place of Slaughter and Processing of Nontraditional, Domesticated Animals.

4.1. The slaughter and processing of nontraditional, domesticated animals may take place at any official plant.

4.2. The slaughter and processing of rabbits which are U.S. Inspected and intended for sale in commercial outlets shall take place in rabbit slaughterhouses or rabbit meat processing establishments constructed according to the technical and sanitary provisions of the incorporated Federal regulations (9 CFR, Part 354).

4.3. The slaughter of rabbits exempt from inspection as provided by subsections 6.2 or 6.3 of this rule may take place at any official plant or on such premises that are registered with the Commissioner for the purpose of rabbit slaughter and processing.

4.4. The slaughter and processing of nontraditional domesticated animals may be conducted at official plants provided that the slaughter and processing operations are separated in time or space from the slaughter and processing of cattle, swine, sheep, and goats. The carcasses of nontraditional, domesticated animals and products derived from these animals shall be kept physically separated and properly identified to avoid any possibility of commingling products.

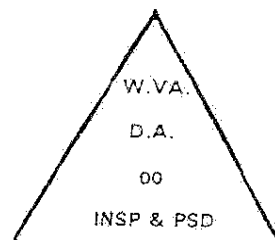
4.5. The slaughter of rabbits exempt from inspection as provided by subsection 6.3 of this rule may take place at the same premises where they were raised if the premises is registered with the Commissioner and the slaughter and processing is performed in a sanitary manner.

§61-23D-5. Official Inspection Marks.

5.1. Official Inspection Marks for Nontraditional, Domesticated Animals, Carcasses and Products Derived Therefrom, Except for Rabbits.

5.1.1. An authorized employee of the West Virginia Department of Agriculture or a plant employee working under his or her direct supervision shall apply the official inspection mark to inspected and passed carcasses and parts of carcasses.

5.1.2. The official inspection mark shall be in the form of a triangle and arrangement as shown in the example in this subdivision. The triangle side shall be approximately 2-1/2 inches (6.4 cm) long. It shall follow the wording: "West Virginia Department of Agriculture, Inspected and Passed", or its abbreviations as approved by the Director of the Meat Inspection Division. The number of the establishment where the animal was slaughtered or prepared, shall be used in lieu of "00".



5.2. Official Inspection Marks for Rabbits.

5.2.1. The official inspection mark approved for use on inspected and passed rabbit products shall be in the form of a circle and arranged as indicated in the example in this subsection. The circle shall be 1-3/4 inches (4.5 cm) in diameter. It shall include the following wording: "Inspected for Wholesomeness by WV Department of Agriculture." The number of the establishment where the rabbits were slaughtered or prepared shall be used in lieu of "00".



5.3. Official Inspection Marks on Labels.

5.3.1. The inspection mark to be shown on labels need not be of the size illustrated in subsection 5.2 of this section, provided that it is a sufficient size and of such color as to be conspicuously displayed and readily legible. The same proportions of letter size and boldness shall be maintained.

5.3.2. This inspection mark shall be applied by the licensed establishment using mechanical means and shall not be applied by a hand stamp.

5.3.3. The official inspection marks described in subsections 5.1 and 5.2 of this rule shall also be used on shipping containers, bond labels, artificial casings, and other articles with the approval of the Director of the Meat Inspection Division.

§61-23D-6. Exemptions.

6.1. This rule shall not apply to nontraditional, domesticated animals which are slaughtered and/or processed and are not intended for sale in commercial outlets.

6.2. Up to twenty thousand (20,000) rabbits per calendar year slaughtered and/or processed at an official plant are exempt from antemortem, postmortem, and processing inspection, provided that the rabbits are slaughtered and processed at an establishment licensed by the Commissioner of Agriculture and approved for rabbit slaughter operations.

6.3. Up to twenty thousand (20,000) rabbits per calendar year slaughtered and/or processed at the premises where they were raised are exempt from antemortem, postmortem, and processing inspection, and are eligible to enter commerce.

6.3.a. The rabbits shall be slaughtered and processed using procedures submitted to and approved by WVDA and the premises shall be registered with the Commissioner of Agriculture.

6.3.b. Rabbit producers must keep sale and production records for a minimum of two years, and must provide those to a WVDA compliance officer/inspector if and when requested.

6.3.c. Slaughter facilities operated pursuant to this exemption may be visited by a WVDA compliance officer/inspector without notice.

§61-23D-7. Overtime and Holiday Inspection Service.

7.1. The management of a licensed establishment shall reimburse the Department for the cost of inspection service furnished on any holiday as specified in subsection 7.3 of this Section, or for providing more than forty (40) hours in any administrative workweek Saturday through Friday.

7.2. When a licensed establishment requires inspection service on a holiday or for more than eight (8) hours on any other day, it shall request the veterinary supervisor to furnish inspection during such period. The request shall be made at least seven (7) days before the holiday and at least two (2) days in advance of planned overtime.

7.3. Holidays are specified in W. Va. Code §2-2-1 et seq.

7.4. The Commissioner shall determine from time to time the rate for overtime and holiday services.